

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 545 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

-----  
GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

ABDULBHAI G JADAV

-----  
Appearance:

MS SANGITA PAHWA for Petitioner

MR UTPAL M PANCHAL for Respondent

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/12/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. Challenge has been made by the petitioner, Gujarat State Road Transport Corporation, to the judgment and award dated 26-9-1995 passed by the appellate authority under the Payment of Gratuity Act, 1972, Bhavnagar in Appeal No.61/95 wherein the appeal of the petitioner is rejected and it is held that the petitioner

Corporation should pay Rs.22692-15 to the respondent towards his gratuity claim.

3. The respondent-workman on attaining the age of superannuation retired from the services of the Corporation on 28th February, 1993. Rs.50725-45 were paid to the respondent-workman after his retirement as his gratuity. It is not in dispute that the leave for the period from 27th August, 1991 to 20th August, 1992 was sanctioned to the respondent-workman as he was suffering from polio. Similarly, for the same ailment his leave was sanctioned for the period from 21st August, 1992 to 12th February, 1993. After retirement of the respondent-workman, under the order dated 23rd August, 1993, the petitioner-Corporation herein issued an order cancelling the sanction of the leave in favour of the respondent-workman for the period aforesaid. Not only this, but Rs.18,018-15 were held to be paid in excess to the workman concerned and this amount was deducted from the gratuity amount payable to the workman.

4. Aggrieved of the aforesaid action of the petitioner-Corporation, the respondent-workman approached to the Controlling Authority, Bhavnagar by filing an application No.12/95. The said application came to be allowed on 26th September, 1995. The appeal preferred by the petitioner-Corporation was rejected.

5. The learned counsel for the petitioner is unable to show any error much less an error apparent on the face of the order of the authority below which calls for interference of this Court sitting under Article 226 or 227 of the Constitution of India. Much emphasis has been put by the learned counsel for the petitioner on the fact that the Corporation deducted an amount of Rs.18018-15 from the total amount of gratuity but the Controlling authority ordered for payment of Rs.22692-50, which is highly arbitrary.

6. However, I do not find any substance in this contention of the counsel for the petitioner for the obvious reason that what amount has been deducted is not the question relevant to the controversy, but real issue is as per the provisions of the Payment of Gratuity Act, 1972, the workman concerned is entitled for what amount of gratuity. The authority below after taking into consideration all the facts of the case has rightly determined that the respondent-workman is entitled to Rs.22692-15 towards the gratuity amount. The learned counsel for the petitioner has failed to show any illegality in the calculation which has been made of the

amount of the gratuity payable to the respondent-workman.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. It is a case where the respondent-workman has unnecessarily been deprived of the amount of gratuity and as such the petitioner is directed to make the payment of the amount of gratuity as determined by the authority below to the respondent-workman within a period of fifteen days from the date of receipt of writ of this order together with the interest thereon at the rate of 12% from 28th February, 1993 till the payment thereof. The petitioner is further directed to pay Rs.1000/- by way of costs of this petition to the respondent.

\*\*\*\*\*

zgs/-